



1 A few months later, in July and August of 2006, Mr. Tolentino mailed 65 grams of  
2 methamphetamine to an undercover agent in South Florida. The methamphetamine, was found to be  
3 of 30% purity—a clear measure of Mr. Tolentino’s lack of sophistication. The drugs were valued at  
4 roughly \$4500. The final price of Mr. Tolentino’s brief 2006 crime spree is far greater. By statute,  
5 he now faces a mandatory minimum five-year term, based on a drug weight above 50 grams. 21  
6 U.S.C. § 841(b)(1)(B). Although individuals in similar circumstances can escape that harsh  
7 outcome, Mr. Tolentino is ineligible for so-called “safety valve” sentencing, due to his sole  
8 prior—the check fraud conviction.

9 Consequently, Frank Tolentino asks the Court to impose the smallest sentence permitted by  
10 law, sixty months in custody. This request is mirrored by the sentencing recommendation in the PSR  
11 and by the plea agreement.

## 12 DISCUSSION

### 13 I. Procedural History

14 This case originated out of the Southern District of Florida. The investigation emanated from  
15 that district and it was from there that the arrest warrant was issued. Mr. Tolentino was found in our  
16 district (at his home) and hence made his initial appearance here in November, 2006.

17 After his release, Mr. Tolentino traveled to Florida and the prosecution commenced. In very  
18 short order, he decided to resolve the matter and requested assistance in this district in arranging a  
19 transfer, pursuant to Rule 20 of the Federal Rules of Criminal Procedure.

20 In the months while negotiations were pending, Mr. Tolentino successfully submitted to  
21 pretrial supervision, including drug testing and counseling. Eventually, terms for the transfer were  
22 set. Under the agreement, Mr. Tolentino accepted responsibility for an amount of drugs that  
23 triggered the five-year mandatory minimum, though the agreement permitted a safety-valve  
24 reduction, if he were deemed eligible. The government agreed to recommend a low-end sentence, in  
25 any event.  
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1 Prior to sentencing, Mr. Tolentino attempted to secure expungement of his prior conviction, to  
2 thereby gain access to a sentence below the statutory minimum. Unfortunately, although the state  
3 court ultimately reduced his prior conviction to a misdemeanor, no expungement was granted.  
4 Exhibit A, attached.

## 5 **II. Reasonableness of Requested Sentence**

6 A sixty-month sentence amply addresses the various statutory goals of sentencing under 18  
7 U.S.C. § 3553. Considering the nature of this case, no greater sentence is needed to satisfy the  
8 punitive, protective and deterrence goals. The mandated sentence far outweighs any future danger  
9 posed by Mr. Tolentino.

10 Moreover, full consideration of Mr. Tolentino's history and characteristics, as set forth in the  
11 PSR and in the character letters attached, supports the requested sentence. Exhibit B.

12 Finally, the rehabilitative aims of sentencing are satisfied by Mr. Tolentino's participation in  
13 the Bureau of Prisons 500-hour drug treatment program, and by treatment during supervised release.

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**CONCLUSION**

For all of the foregoing reasons, Frank Tolentino respectfully requests that the Court impose a sentence of sixty months in prison. He also asks that the Court recommend his participation in the Bureau of Prisons 500 hour residential drug treatment program.

Dated: May 2, 2008

Respectfully submitted,

BARRY J. PORTMAN  
Federal Public Defender

/s/

RONALD C. TYLER  
Assistant Federal Public Defender